APPENDIX

Section 125 of the National Defense Act of June 3, 1916, as amended (10 U. S. C. 1393), provides in pertinent part:

> It shall be unlawful for any person not an officer or enlisted man of the United States Army, Navy, or Marine Corps to wear the duly prescribed uniform of the United States Army, Navy, or Marine Corps, or any distinctive part of such uniform or a uniform any part of which is similar to a distinctive part of the duly prescribed uniform of the United States Army, Navy, or Marine Corps: * * *.
>
> Any person who offends against the provisions of this section shall, on conviction, be punished by a fine not exceeding $300, or by imprisonment not exceeding six months, or by both such fine and imprisonment: * * *.

Section 1 of the Act of June 4, 1920, 41 Stat. 759, amended Section 1 of the National Defense Act of June 3, 1916, to provide (10 U. S. C. 2):

> * * * the Army of the United States shall consist of the Regular Army, the National Guard while in the service of the United States, and the Organized Reserves, including the Officers' Reserve Corps and the Enlisted Reserve Corps.

Section 74 of the National Defense Act of June 3, 1916, as amended by the Act of June 4, 1920, 41 Stat. 781 (32 U. S. C. 111), provides:

> Persons hereafter commissioned as officers of the National Guard shall not be recognized

as such under any of the provisions of this act unless they shall have been selected from the following classes, and shall have taken and subscribed to the oath of office prescribed in the preceding section of this Act; officers or enlisted men of the National Guard; officers, active or retired, reserve officers, and former officers of the Army, Navy, or Marine Corps, enlisted men and former enlisted men of the Army, Navy, or Marine Corps who have received an honorable discharge therefrom; graduates of the United States Military and Naval Academies; and graduates of schools, colleges, universities, and officers' training camps, where they have received military instruction under the supervision of an officer of the Regular Army who certified their fitness for appointment as commissioned officers; and for the technical branches or Staff Corps and departments, such other civilians as may be specially qualified for duty therein.

Section 75 of the National Defense Act of June 3, 1916, 39 Stat. 202, which was in effect during petitioner's association with the New York State Guard, provided: [1]

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[1] That section was amended by Section 12 of the Act of June 15, 1933, 48 Stat. 158, to provide (32 U. S. C. 113):

"The provisions of this Act shall not apply to any person hereafter appointed as an officer of the National Guard unless he first shall have successfully passed such tests as to his physical, moral, and professional fitness as the President shall prescribe. The examination to determine such qualifications for appointment shall be conducted by a board of three commissioned officers appointed by the Secretary of War from the Regular Army or the National Guard of the United States, or both. The examination herein provided for may be held prior to the original appointment or

The provisions of this Act shall not apply to any person hereafter appointed an officer of the National Guard unless he first shall have successfully passed such tests as to his physical, moral, and professional fitness as the Preident shall prescribe. The examination to determine such qualifications for commission shall be conducted by a board of three commissioned officers appointed by the Secretary of War from the Regular Army or the National Guard, or both.

Army Regulation 600–35, November 11, 1941, prescribing the service uniform for military personnel, provided in pertinent part:

SECTION III

INSIGNIA

* * * * *

24. INSIGNIA FOR COLLAR AND LAPEL OF COAT.—*a. General of the Armies of the United States, Chief of Staff, former Chiefs of Staff, and generals.*—Insignia will be such as they prescribe.

b. Other officers, Army nurses, and warrant officers.—(1) *U. S.*—The block letters "U. S." 7/16 inch in height, each letter to

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promotion of any individual as an officer or warrant officer and if the applicant has been found qualified, he may be issued a certificate of eligibility by the Chief of the National Guard Bureau, which certificate, in the event of appointment or promotion within two years to the office for which he was found qualified, shall entitle the holder to Federal recognition without further examination, except as to his physical condition.

"Upon being federally recognized such officers and warrant officers may be appointed in the National Guard of the United States."

be followed by a period. To designate officers of the Federally recognized National Guard the letters forming the abbreviation of the name of the State, as prescribed in paragraph 64, $^{3}/_{16}$ inch in height superimposed on the "U. S."

* * * * *

64. STATE ABBREVIATIONS FOR INSIGNIA FOR NATIONAL GUARD.—Abbreviations to be all capitals with no periods.

* * * * *

New York----------NY

Army Regulation 600–40, August 28, 1941, which regulates the wearing of the service uniform, provides in pertinent part:

SECTION IV

INSIGNIA

41. Reserve officers and officers of the National Guard will wear the same insignia as officers of the Regular Army. * * *

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